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Corrected Version (Change to 3rd paragraph – last line)

**WTO Appellate Body Finds That Certain Canadian Dairy Programs
Constitute Export Subsidies**

United States Trade Representative Charlene Barshefsky applauded an October 13 WTO appellate body decision which sustains the U.S. allegation that Canada's "Special Milk Classes" schemes are inconsistent with its WTO obligations and constitute export subsidies.

"This ruling holds countries to their commitment to refrain from providing illegal export subsidies and demonstrates that efforts to circumvent WTO commitments will not be tolerated," stated Ambassador Barshefsky. "We expect Canada to immediately comply with the appellate body decision. By reinforcing the disciplines on agricultural export subsidies which bind all WTO members, this ruling provides a strong basis for entering a new Round of trade negotiations on agriculture."

The appellate body modified the panel's earlier decision on Canada's limitation on fluid milk imports. It confirmed that Canada's \$20 limitation on each importation of fluid milk was inconsistent with Canada's WTO obligations. However, it concluded that restrictions limiting imports to consumer packaged milk for personal use were consistent with Canada's schedule.

Background

Canada agreed to specific export subsidy limits on dairy products as part of its Uruguay Round WTO obligations. However, on August 1, 1995, Canada replaced its subsidy payments on dairy product exports, which were financed by a levy on producers, with a new permit system which allowed Canadian processors to purchase lower priced milk for sales to export destinations. Canada claimed the new system was no longer an export subsidy. The United States challenged Canada's claim.

Canada also established an annual tariff-rate quota for fluid milk as part of its Uruguay Round market access commitments. The United States also challenged Canada's administration of the

tariff-rate quota on the grounds that it denied access to commercial shipments of fluid milk. However, Canada maintained that the tariff-rate quota was limited to imports for personal use by the importer and the importer's household.

On March 17, a WTO dispute settlement panel found that Canada's export subsidies and import restrictions on dairy products violated WTO obligations. The panel report sustained the United States' challenge that the pervasive involvement of Canada's federal and provincial governments in a system that provides low cost milk to processors for export makes that program an export subsidy, and the export subsidies on dairy products are a violation of Canada's obligations under the WTO Agreement on Agriculture. The panel also found that Canada's limitation of market access for fluid milk was inconsistent with its obligations under the WTO. The panel's report was circulated to WTO members on May 17. On July 15, Canada notified the WTO that it was appealing the panel report.